

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

FILED
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PUBLIC EMPLOYMENT RELATIONS BOARD

DONALD McGRANE, et al.,)	
)	
Grievants)	
)	
and)	88-MA-02
)	
STATE OF IOWA and IOWA DEPARTMENT)	
OF REVENUE AND FINANCE,)	Adjudicator's Decision
)	
Employer)	

Appearances

For the State of Iowa & Iowa Dept. of Revenue & Finance:

William C. Snyder, Chief, Employment Relations Bureau
Mike Prey, Personnel Management Bureau Specialist IV

For the Grievants:

Donald McGrane, Public Service Executive II

I. JURISDICTION

On September 8, 1987, an appeal of a grievance was filed against the State of Iowa and Iowa Department of Revenue & Finance (State) with the Public Employment Relations Board (PERB) pursuant to 581 IOWA ADMIN. CODE §12.2(5) (1987). The State filed a Special Appearance on October 28, 1987, alleging that the issues raised in the grievance do not arise under Chapter 19A IOWA CODE (1987) or the rules enacted by the Iowa Department of Personnel, 581 IOWA ADMIN. CODE (1987) (IDPO Rules) and that PERB is therefore without jurisdiction.

A hearing was held on the State's Special Appearance on November 20, 1987, before PERB Hearing Officer John R. Baker. The Special Appearance was denied on November 25, 1987.

The State renewed its objection to PERB's jurisdiction at hearing before me in Des Moines, Iowa, on December 2, 1987, in the form of a Motion to Dismiss. Ruling on the State's motion was reserved and is contained in the Conclusions of Law, infra.

II. ISSUES

The issue in this case is whether the State violated Chapter 19A or the IDPO rules in implementing Senate File 504, "Comparable Worth," and if so, what shall be the remedy?

III. FACTS

The facts in this case are not in dispute. On March 8, 1985, a comparable worth wage increase, mandated by the Iowa Legislature, was implemented. At that time, Donald McGrane and the other grievants were employed by the Iowa Department of Revenue and Finance (Dept. of Revenue) as Auditor III's and Auditor IV's. The grievants received a 4.5% wage increase as a result of the comparable worth legislation. The pay grade of an Auditor IV changed from 30 to 31.

In May, 1985, the Department of Revenue's field bureau was reorganized, and the job classifications of Auditor III and IV were eliminated. Some of the grievants became Public Service Executive I's (PSE I) and some became PSE II's. A move from Auditor IV to PSE I was a demotion; a move from Auditor IV to PSE II, a promotion. McGrane was promoted to a PSE II, and received a 5% pay increase. His job function as a PSE III is similar to his work as an Auditor IV.

On June 4, 1985, William Krah, the State Comptroller, issued a memorandum to all of the state's personnel officers. The memorandum states, in relevant part:

With the passage and signing of House File 753, Comparable Worth can now be implemented to carry out the Governor's original recommendation to treat all employees equally. The following is a summary of the key factors relative to this implementation.

* * *

Merit Personnel - Noncontractual (previously implemented range to range and step to step)

- Effective July 12, 1985, back down one step or equivalent (None adjusted below the minimum of new range)
- No recapture on previous payments.
- All those downgraded will be returned to original range, effective July 12, 1985

This legislation resulted in the grievants losing their 4.5% wage increase of March 1985. The reduction was explained to one of the grievants, Jerry Upton, in a letter of July 24, 1985, from Suzanne L. Brott, Personnel Management Specialist as follows:

As you know by now, the Governor's Office decreed that all state employees who had received step-to-step increases on March 8, 1985 due to comparable worth would go back one step effective July 12, 1985. This was done in order to treat all employees the same under comparable worth. All employees under the union contract, including all clerical positions except those with a confidential status, went step-to-step minus one on March 8th. Merit and the Comptroller's Office went back over every personnel action occurring between March 8, 1985 and July 12, 1985 for those people who had received a step-to-step increase and adjusted the salaries accordingly. The agency had no prerogative or voice in how this was to be handled. All agencies and people are being treated alike.

In 1987, the legislature enacted legislation to restore the wage increases that the employees were given, and then lost, in 1985. The legislative intent, set forth in House File 753 states, in relevant part:

Sec. 4. LEGISLATIVE INTENT ON STEP RESTORATION. In order to complete the implementation of comparable worth, it is the intent of the general assembly that employees who were employed on March 8, 1985, and who received a step or equivalent pay reduction while receiving comparable worth adjustments shall have the pay reduction restored effective with the first pay period of fiscal

year 1988, if the employee is still employed with the state in the same classification on July 1, 1987, except that an employee shall not be placed at a step or pay level above the maximum step or pay level in the employee's salary range. Laws of the 71st G.A., 1985 Session, Ch. 152.

This legislative intent was implemented in Senate File 504, which states in relevant part:

The pay of employees in classes not included in a collective bargaining agreement under Chapter 20 and who received a step or equivalent pay reduction following comparable worth increases implemented on March 8, 1985, shall have the step or equivalent pay reduction restored effective the pay period beginning June 26, 1987, if the employee is still employed in the same class and was not adjusted to the minimum salary provided for the class on March 8, 1985, and is not at the top of the salary range provided for the class on or before June 15, 1987.

Because the grievants' job classifications as of March 8, 1985 were no longer in existence as of June 26, 1987, they did not receive a step restoration. Nor did other employees who were promoted or otherwise changed job classifications between March 8, 1985 and June 26, 1987. Where job classifications were combined, employees were considered to be in the same job classification they previously held.

IV. CONCLUSIONS OF LAW

PERB's jurisdiction to hear merit grievances arises from Chapter 19A.14(2) IOWA CODE (1987), which states in relevant part:

2. Employee grievances. A merit system employee... may file the appeal with the public employment relations board for hearing. The hearing shall be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act. Decisions rendered shall be based upon a standard of substantial compliance with this chapter and the rules of the department of personnel. Decisions by the public employment relations board constitute final agency action.

The grievants have not cited any sections of Chapter 19A or the Rules of the Dept. of Personnel which they claim have been violated. The grievants state that they have not been treated equitable or consistently, and should therefore receive the step restoration.


The State argues that PERB has no jurisdiction to decide this case because comparable worth and the reorganization of the Department of Revenue are outside the scope of jurisdiction granted to the agency in Ch. 19A.14(2), i.e., that they occurred as a result of legislation and outside Ch. 19A and the IDOP rules. On the merits of the case, the State argues that it was required to implement comparable worth wage increases, reductions and step restorations in accordance with the legislative intent and enactments.

The adjustments to the grievants' salaries were made as a result of laws passed by the Iowa legislature. This legislation did not arise under or alter Chapter 19A or the IDOP rules. The grievants have not alleged that the State violated Chapter 19A or the IDOP rules. Therefore the question of whether the State substantially complied with Chapter 19A and the IDOP rules is irrelevant. PERB does not have jurisdiction to consider the grievance and the State's Motion to Dismiss is granted.

V. AWARD

The grievance is dismissed.

DATED at Des Moines, Iowa this 5th day of December, 1987.



AMY J. MILLS, ADJUDICATOR